

**NOTICE OF PROPOSED RULEMAKING
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
CALIFORNIA CODE OF REGULATIONS TITLE 25, DIVISION 1,
CHAPTERS 1, 2, 2.2, 3, 4 and 5.5**

NOTICE IS HEREBY GIVEN that the California Department of Housing and Community Development (HCD) proposes to amend existing regulations and adopt new regulations governing the fees assessed for its Mobilehome and Special Occupancy Parks, Manufactured Housing, Factory Built Housing, Occupational Licensing and Employee Housing Programs.

SECTIONS AFFECTED

HCD proposes to amend the following regulations found in Title 25, California Code of Regulations (Title 25, CCR):

Sections:

- 644 and 645 (Employee Housing (EH) Program);
- 1004.5, 1016, 1017, 1020.1, 1020.4, 1020.7, 1020.9, 1025, 1105, and 1611 (Mobilehome Parks (MP)); and
- 2004.5, 2016, 2017, 2020.4, 2020.7, 2020.9, 2105, and 2611 (Special Occupancy Parks (SOP) Program)
- 3060 (Factory Built Housing (FBH) Program)
- 4044 and 4884 (Mobilehome-Manufactured Housing (MH) Program)
- 5040 and 5360 (Manufactured Housing Sales, Occupational Licensing and Education (OL) Program)

PUBLIC HEARING

Public hearings have been scheduled at which time any interested party may present statements, orally or in writing, about this proposed regulatory action. Each hearing will be held as follows:

**July 26, 2005
Ronald Regan State Building
Auditorium
300 South Spring Street
Los Angeles, CA 95030
10:00 a.m.**

**August 3, 2005
HCD (Headquarters)
1800 3rd Street, Room 183/183
Sacramento, CA 95814
10:00 a.m.**

Pre-hearing registration will be conducted on the day of the hearing. Those registered will be heard in order of their registration. Anyone else wishing to speak at the hearing will be afforded an opportunity after those registered have presented their testimony. The time allowed for each person to present oral testimony may be limited if a substantial number of people wish to speak.

Individuals presenting oral testimony are requested, but not required, to submit a written copy of their statements. The hearing(s) will be adjourned immediately following the completion of the oral testimony.

The public hearing facilities are accessible to persons with mobility impairments. If any special assistance is required (e.g., interpreter), please notify the contact person named in this notice at least 15 days prior to the public hearing.

SUBMISSION OF WRITTEN COMMENTS

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to HCD. All written comments must be received at this office no later than 5:00 p.m. on August 3, 2005.

Written comments may be submitted by mail, e-mail, or fax, as follows:

By mail to:

Department of Housing and Community Development
Division of Codes and Standards
P. O. Box 1407
Sacramento, CA 95812-1407
ATTN: Project Management Services

By e-mail to: feeregs@hcd.ca.gov

By FACSIMILE TO: (916) 327-4712

ATTN: Michelle Garcia

PERMANENT ADOPTION OF REGULATIONS

Following the public comment period, HCD may adopt the proposals substantially as described below or may modify the proposals if these modifications are sufficiently related to the original text. With the exception of minor technical or grammatical changes, the text of any modified proposal will be available for at least 15 days prior to its adoption from the contact person designated in this Notice. HCD will accept written comments on the modified regulations during the 15-day period.

AUTHORITY AND REFERENCE

Health and Safety code s 17003.5, 17020, 17036, 17040, 17050, 18015, 18020, 18031, 18052.6, 18153, 18300, 18502, 18502.5, 18551, 18552, 18605, 18610, 18613, 18613.4, 18613.5, 18613.7, 18620, 18630, 18640, 18670, 18690, 18691, 18865, 18870.3, 18871.3, 19990, 19991.3, and 50406 grant HCD the authority to adopt regulations governing the Employee Housing, Mobilehome Parks, Special Occupancy Parks, Manufactured Housing, Factory Built Housing and Occupational Licensing Programs.

These regulations implement interpret, and make specific, Health and Safety Code s 17003.5, 17020, 17036, 17040, 17050, 18015, 18020, 18031, 18045.6, 18050, 18052.6, 18153, 18300, 18305, 18400, 18400.3, 18402, 18404, 18407, 18500, 18501, 18502, 18502.5, 18503, 18550, 18551, 18552, 18605, 18610, 18613, 18613.4, 18613.5, 18613.7, 18620, 18630, 18640, 18670,

18690, 18691, 18865, 18865.6, 18866.3, 18866.5, 18870, 18870.2, 18870.3, 18870.4, 18874.10, 18871.3, 18872, 19982, 19990, 19991.3, and 50406(f). 8 U.S.C. Sections 1621, 1641, and 1642.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Summary of Existing Laws

Employee Housing Program

HCD is authorized under the Employee Housing Act (EHA) commencing with Health and Safety Code (HSC) Section 17000 to operate the Employee Housing (EH) Program. The EHA mandates that HCD promulgate statewide preemptive regulations for the EH Program relating to the maintenance, use, and occupancy of “employee housing.” Employee Housing, subject to the EH Program, is housing that accommodates five or more employees, or in certain circumstances, five or more farm workers in rural areas, as both are defined in HSC 17008. HCD is the enforcement agency under the EH Program unless a local government elects to assume enforcement responsibility pursuant to HSC 17050(b).

HSC Section 17041 authorizes HCD to establish a schedule of fees for the enforcement and administration of the EH Program.

Mobilehome Parks and Special Occupancy Parks Program

The Mobilehome Parks Act (MPA) commencing with HSC Section 18200 and the Special Occupancy Parks Act commencing with Section 18860 were enacted for the benefit of mobilehome and special occupancy park operators, residents and users to assure their health, safety and general welfare, to provide them with a decent living environment and to protect their investments in their manufactured homes, mobilehomes, multi-unit manufactured housing (MH-unit) and recreational vehicles.

The MPA (HSC Sections 18502(a) and 18613(f)) and SOPA (HSC 18870.4) authorize HCD to establish a schedule of fees for the administrative and enforcement of the Mobilehome and Special Occupancy Parks Programs.

Factory Built Housing Program

The California Factory-Built Housing (FBH) Law commencing with HSC Section 19960 governs the construction standards for factory-built homes and factory-built building components manufactured for sale or use within the State.

The FBH Law (HSC Section 19982) grants HCD authority to adopt regulations establishing a schedule of fees to pay for the administration and enforcement of the FBH Program.

Mobilehome-Manufactured Housing Program

The Mobilehome-Manufactured Housing Act (MHA) commencing with HSC Section 18000, was enacted to establish minimum design, construction and alteration standards for manufactured homes; multi-unit manufactured housing; commercial modulars and special purpose commercial modulars (cumulatively, “MH units”), sold offered for sale, rent, or lease within the State.

HSC Sections 18031 and 18613(f) grant HCD the authority to adopt regulations establishing a schedule of fees to pay for the administration and enforcement of the MHA.

Occupational Licensing Program

The Occupational Licensing (OL) Program, within the MHA, commencing with HSC Section 18045, assists with the enforcement of the MHA that govern licensing, escrows, and sales of MH units through required education, investigating complaints and illegal practices, and taking appropriate disciplinary action against those who violate the laws and regulations, including referrals to prosecutorial agencies.

The MHA (HSC Section 18031) provides HCD the authority to adopt fees commensurate with costs of enforcement and administration of the OL Program.

Summary of Existing Regulations

Employee Housing Program

The Employee Housing (EH) Program regulations (Title 25, CCR, Division 1, Chapter 1) govern the construction, maintenance, use, and occupancy of privately-owned and operated employee housing facilities providing housing for five or more employees to assure their health, safety, and general welfare. HCD directly, or through local government enforcement agencies, inspects and issues permits for facility operation. Through the Office of the Mobilehome Ombudsman, HCD accepts requests for assistance and initiates investigations of complaints concerning health and safety violations within employee housing facilities.

Current regulations 644(a) and 645(b) which establish assessed fees for reinspection and technical service, were last amended in 1982.

Mobilehome Parks and Special Occupancy Parks Program

The Mobilehome Parks (MP) (Title 25, CCR, Division 1, Chapter 2) and Special Occupancy Parks (SOP) (Title 25, CCR, Division 1, Chapter 2.2) Program governs the maintenance and occupancy of all privately owned mobilehome and special occupancy parks in the State, as well as the installation of manufactured homes and mobilehomes both in and outside of the parks. HCD directly or through local governments, inspects and issues permits for park operation

Current regulations which establish assessed fees for permitting, certification, inspection, investigation and other technical services, were last amended in 1988.

Factory-Built Housing Program

The Factory Built (FBH) Program (Title 25, CCR, Division 1, Chapter 3, Subchapter 2) regulations establish construction standards for factory-built homes and factory-built building components manufactured for sale or use within the State. Inspections are conducted and complying homes or components are issued an HCD Insignia of Approval.

Current regulations which establish assessed fees for plan checking, inspection and field technical service, certification, renewal, monitoring, alternate approval, were last amended in 1986.

Mobilehome-Manufactured Housing Program

The Mobilehome-Manufactured Housing (MH) Program (Title 25, CCR, Division 1, Chapter 3) regulations is to assist with the development and enforcement of preemptive federal and state regulations establishing minimum design, construction and alteration standards for manufactured homes; multi-unit manufactured housing; commercial modular units and special purpose commercial modular units sold, offered for sale, rented, or leased within the State. Inspections are conducted and HCD Insignias of Approval are issued to indicate compliance.

Current regulations which establish assessed fees for plan check, plan resubmission, plan supplement, inspection, manufacturer plant inspection or monitoring and technical services of mobilehomes-manufactured housing, commercial modular units, and special purpose commercial modular units, were last amended in 1989.

Occupational Licensing Program

The Occupational Licensing (OL) Program (Title 25, CCR, Division 1, Chapter 4) regulations govern the sale or lease of manufactured homes, mobilehomes, and/or commercial modular units, including the licensing of manufacturers, distributors, dealers, and salespersons. The program also performs functions on behalf of the Mobilehome Ombudsman related to investigating and resolving consumer complaints pertaining to manufactured housing.

Additionally, 25 CCR 5814 requires HCD to verify applicability for alien licensing applications and allows for a fee to be assessed for reimbursement of the associated costs.

Current regulations which establish assessed fees for licensing, certification, investigative and technical service were last amended in 1989 and 1991.

Summary of Effects of Proposed Regulatory Action

This proposed regulatory action will realign HCD's current regulatory fees to meet its statutory requirement to reimburse actual program costs, to assure timely service and to expeditiously reduce its current inventory of pending health and safety service requests.

This regulatory action is based on information obtained through time and motion studies performed for every activity undertaken by HCD staff. The proposed fee amounts were derived by utilizing this information, along with the staffing and overhead costs associated with the specific activities. HCD has prepared and has available for public comment, the documentation results of its studies and calculations.

HCD has determined that implementing these proposed regulations will provide the regulated public timely monitoring, inspection, plan review and complaint response activities and reduce its current inventory

The proposed fee increases will also permit local enforcement agencies assuming jurisdiction for HCD programs, to increase the fees they are allowed to assess to enforce the provisions of these programs.

Comparable Federal Statutes or Regulations

Employee Housing Program.

The Migrant and Seasonal Agricultural Worker Protection Act (MSPA) repealed and replaced the Farm Labor Contractor Registration Act of 1963, as amended (29 C.F.R. § 500.0). The MSPA, as amended (29 U.S.C. §1801 et seq.), safeguards most migrant and seasonal agricultural workers in their interactions with farm labor contractors, agricultural employers, agricultural associations, and providers of migrant housing. The MSPA and its regulations are intended to supplement State law compliance with the MSPA and do not excuse individuals from compliance with appropriate State law or regulations (29 C.F.R. § 500.2). Under 29 CFR part 500.130(a) “Each person who owns or controls a facility or real property which is used as housing for any migrant agricultural worker must ensure that the facility complies with all substantive Federal and State safety and health standards applicable to such housing.”

Under 29 CFR part 500.135 (a), any of these facilities or real properties used for migrant housing may not be occupied until they have been inspected and certified to meet these safety and health standards by a state or local health authority or other appropriate agency, including a federal agency. Under subdivision (b) of this part, once a facility or property is occupied, it must be supervised and continually maintained so as to ensure that it remains in compliance with the applicable safety and health standards.

Under 29 CFR part 500.132, the applicable federal housing standards are the standards promulgated by the Employment and Training Administration (at 20 C.F.R. § 654.404 et seq.) and the standards promulgated by the Occupational Safety and Health Administration (at 29 C.F.R. § 1910.142 et seq.). “Substantive safety and health standards include, but are not limited to those that provide fire prevention, and adequate and sanitary supply of water, plumbing maintenance, structurally sound construction of buildings, effective maintenance of those buildings, provision of adequate heat as weather conditions require, and reasonable protections for inhabitants from insects and rodents.” (29 C.F.R. § 500.113)

Manufactured Housing Program.

Federal law and regulations (National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 et seq.; 24 CFR, Parts 3280 and 3282) govern construction standards for manufactured housing built on or after June 15, 1976.

Mobilehome Parks, Special Occupancy Parks, Occupational Licensing Programs.

No comparable federal laws governing these areas exist.

POLICY STATEMENT OVERVIEW

HCD is dedicated to providing prompt and effective services to all of its stakeholders. Through the implementation, administration and enforcement of its programs -- Mobilehome and Special Occupancy Parks, Factory-Built Housing Program, Manufactured Housing, and Occupational Licensing -- HCD strives to eliminate unreasonable backlogs of activity; ensure that those paying fees for services are charged just for those services (rather than also paying the costs attributable to those not complying with the laws' requirements); and to ensure that health and safety requirements are addressed through both direct intervention and through monitoring and education of intermediary parties.

Current law (Health and Safety Code Sections 17936, 18031, 18502, 18502.5, 18503, 18870.3, 18870.4, and 19982) mandate HCD to set and adopt fees through regulations which reflect actual program costs. Current regulations (25 CCR Sections 644, 645, 1004.5, 1016, 1017, 1020.1, 1020.4, 1020.7, 1020.9, 1025, 1105, 1611, 2004.5, 2016, 2017, 2020.4, 2020.7, 2020.9, 2105, 2611, 3060, 4044, 4884, 5040, and 5360), however, were last amended in the late 1980's and do not generate revenue sufficient to reimburse HCD for activities beyond responding to the most urgent health and safety requests. Consequently, HCD has, over approximately the past five years, accumulated an inventory of applications which impedes its goal to meet public expectations of expedient service.

SMALL BUSINESS IMPACT STATEMENT

Small businesses are affected by these regulations. The types of small businesses that may be affected by these regulations are: employee housing providers, farmers, mobilehome parks, special occupancy parks, and the businesses that provide services to park facilities; current and potential manufactured housing manufacturers, distributors and dealers.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: NONE

Costs or savings to any state agencies: NONE

Costs or savings to local agencies or school districts which must be reimbursed in accordance with Part 7 (commencing with Section 17500) of Division 4 of the Government Code: NONE

Other nondiscretionary costs or savings imposed on local agencies: NONE.

Costs or savings in federal funding to the State: NONE.

Significant effect on housing costs: NONE. The proposed regulations will have an effect on the costs of manufactured housing and mobilehomes. The net effect is less than \$100.00 per new unit sold. This cost will be incurred by the increases in fees assessed for manufactured housing manufacturers, distributors, dealers and salespersons, who pass these costs through to the consumer. Additionally, homeowners wishing to change the structure of their homes or add accessory buildings, will incur increased costs associated with their building permits. Further, mobilehome and special occupancy park owners and operators may increase space rental costs, rather than absorb the increased costs for planning, permitting, and inspection services.

BUSINESS IMPACTS

HCD has made an initial determination that the proposed amendments will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

The types of businesses that are likely to be affected by these regulations are employee housing providers, farmers, mobilehome parks, special occupancy parks, and businesses that provide services to the park facilities; current and potential manufactured housing manufacturers, distributors and dealers.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The proposed regulations will have a minimal cost effect on representative private persons and businesses. Businesses affected by these proposed regulations include current and prospective manufactured housing, mobilehome, commercial modular manufacturers, distributors, dealers and salespersons; employee housing providers, farms, mobilehome and special occupancy parks. These costs may either be absorbed by these businesses or passed through to the consumer (in the form of higher manufactured unit costs and higher space rental costs) or employee housing tenant. Additionally, individual homeowners wishing to change the structure of their homes or add accessory buildings to their mobilehomes or manufactured housing, will incur increased costs associated with their building permits.

ASSESSMENT OF JOB/BUSINESS CREATION OR ELIMINATION

HCD has determined that this regulatory proposal will not have a significant impact on the creation or elimination of jobs in California, and will not result in the elimination of existing businesses nor create or expand businesses in California.

With the exception of certain manufactured housing and commercial modular manufacturers, the businesses affected by these proposed regulations are State-dependent—e.g., they are located on California properties: farms, mobilehome parks, special occupancy parks, or are businesses that sell to individuals wishing to place their manufactured houses or commercial modular units on California properties.

CONSIDERATION OF ALTERNATIVES

HCD must determine that no reasonable alternative that has been considered or that has otherwise been identified and brought to the attention of HCD would be more effective in carrying out the purpose for which this action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

HCD has considered and implemented certain alternatives. For example, HCD has progressively reduced certain program services as an alternative to imposing higher fees on its clients. Now, however, these reductions have resulted in fewer services and a substantial inventory.

AVAILABILITY OF DOCUMENTS AND OR CONTACT PERSON

HCD has prepared an Initial Statement of Reasons for the proposed regulatory action and has available all the information upon which the proposal is based. Copies of the exact language of the proposed regulations, Initial Statement of Reasons, the rulemaking file, the Final Statement of Reasons (when available) and other information, if any, may be obtained upon request from HCD at the following location or from the contact people listed below:

Department of Housing and Community Development
Division of Codes and Standards
1800 3rd Street, Room 260
Sacramento, California 95814
Fax (916) 327-4712

In addition, this Notice, the exact language of the proposed regulations, and the Initial Statement of Reasons may be found on HCD's website at the following address:

<http://www.hcd.ca.gov/codes>

Contact Persons:

Questions regarding the regulatory process or clarification regarding the substance of this regulatory proposal may be directed to:

Ms. Michelle Garcia, Staff Services Manager
Department of Housing and Community Development
Telephone: (916) 327-2798, Fax: (916) 327-4712
e-mail: feeregs@hcd.ca.gov

or

Ms. Rachel Hill, Associate Governmental Program Manager
Department of Housing and Community Development
Telephone: (916) 327-2656, Fax: (916) 327-4712
e-mail: feeregs@hcd.ca.gov